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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/894,748	06/27/2001	Dror Salee	TI-31241	8026
23494	7590	06/20/2005	EXAMINER	
TEXAS INSTRUMENTS INCORPORATED P O BOX 655474, M/S 3999 DALLAS, TX 75265			CHANG, SHIRLEY	
			ART UNIT	PAPER NUMBER
			2614	

DATE MAILED: 06/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/894,748	SALEE, DROR
	Examiner Shirley Chang	Art Unit 2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-3 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: ____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date: ____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: ____

***Claim Rejections - 35 U.S.C. § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) The invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**1. Claims 1-3 are rejected under 35 U.S.C. 102(e) as being anticipated by White et al. (US 2002/0038461).**

As to claim 1:

- The claimed “first cable modem termination system (CMTS) circuitry component having a **receiver or transmitter**” is met by active CMTS 12, which includes a receiver and/or transmitter since the ‘CMTSs is each configured to receive and transmit modem-compatible signals’ [0038].
- The claimed “the first component including a first system **timer** adapted to be incremented by clock pulses” and “a first **comparator** connected to said first timer for determining when the first timer has reached a

designated count" is inherently met by "a hardware-based synchronization scheme used to help ensure that all CMTSs 12, 28 in the system 10 work from a common time reference" [0061]. Also, White et al. discloses "a process 100 of restoring (or otherwise providing redundant) service in response to detecting a CMTS non-activity indication or inducer, e.g., a transmit failure, includes a stage 102, where synchronization messages (synch messages) are sent from an active CMTS, e.g., CMTS 12.sub.2 to an associated diagnostic CM 90.sub.2. At stage 102, synchronization messages are periodically sent to the diagnostic CM 90.sub.2. The CM 90.sub.2 responds to the received synch messages by starting a synch timer" [0068-0070], which meets the claimed comparator.

- The claimed "and a first **reset** circuit connected to the first timer for resetting the first timer in response to a reset signal" is met by 'the CMTS resetting on receipt of alarm and trigger the spare CMTS to take over" [0065] and "At stage 108, the failed, or otherwise imminently or currently non-active, CMTS 12.sub.2 resets and the spare CMTS 16 loads parameters from the failed CMTS 12.sub.2. The spare CMTS 16 updates its parameters to match those taken from the failed CMTS 12.sub.2. The spare CMTS 16 further begins producing synch messages and sets an RF switch to map the spare CMTS output to the appropriate HFC segment associated with the failed CMTS 12.sub.2" [0071].

- The claimed “second component being adapted to serve as a swap-out replacement for the first component” is met by “the spare CMTS 16 is configured to take over for a failed normally-active CMTS 12” [0038].
- The claimed “a second CMTS circuitry component having a **receiver** or **transmitter**” is met by the ‘CMTSs is each configured to receive and transmit modem-compatible signals’ [0038].
- The claimed “second component including a second system timer adapted to be incremented by clock pulses” and “a second **comparator** connected to the second timer for determining when the second timer has reached a designated count” is inherently met by “a hardware-based synchronization scheme used to help ensure that all CMTSs 12, 28 in the system 10 work from a common time reference” [0061], and also met by “the spare CMTS 16 includes hardware and software, in control unit 17, for monitoring the other CMTSs 12” [0042]. Also, White et al. discloses “a process 100 of restoring (or otherwise providing redundant) service in response to detecting a CMTS non-activity indication or inducer, e.g., a transmit failure, includes a stage 102, where synchronization messages (synch messages) are sent from an active CMTS, e.g., CMTS 12.sub.2 to an associated diagnostic CM 90.sub.2. At stage 102, synchronization messages are periodically sent to the diagnostic CM 90.sub.2. The CM 90.sub.2 responds to the received sync messages by starting a sync timer” [0068-0070], which meets the claimed comparator.

- The claimed “and a second **reset** circuit connected to the second timer for resetting the second timer in response to a reset signal” is met by ‘the CMTS resetting on receipt of alarm and trigger the spare CMTS to take over” [0065] and “At stage 108, the failed, or otherwise imminently or currently non-active, CMTS 12.sub.2 resets and the spare CMTS 16 loads parameters from the failed CMTS 12.sub.2. The spare CMTS 16 updates its parameters to match those taken from the failed CMTS 12.sub.2. The spare CMTS 16 further begins producing synch messages and sets an RF switch to map the spare CMTS output to the appropriate HFC segment associated with the failed CMTS 12.sub.2” [0071].
- The claimed “circuitry **connected** to the first and second components for connecting the first comparator to provide the reset signal to the second reset circuit” is met by ‘the CMTS resetting on receipt of alarm and trigger the spare CMTS to take over” [0065] and “At stage 108, the failed, or otherwise imminently or currently non-active, CMTS 12.sub.2 resets and the spare CMTS 16 loads parameters from the failed CMTS 12.sub.2. The spare CMTS 16 updates its parameters to match those taken from the failed CMTS 12.sub.2. The spare CMTS 16 further begins producing synch messages and sets an RF switch to map the spare CMTS output to the appropriate HFC segment associated with the failed CMTS 12.sub.2” [0071].

As to claim 2:

- The claimed “first cable modem termination system (CMTS) circuitry component having a **receiver or transmitter**” is met by active CMTS 12, which includes a receiver and/or transmitter since the ‘CMTSs is each configured to receive and transmit modem-compatible signals’ [0038].
- The claimed “the first component including a first system **timer** adapted to be incremented by clock pulses” and “a first **comparator** connected to said first timer for determining when the first timer has reached a designated count” is inherently met by “a hardware-based synchronization scheme used to help ensure that all CMTSs 12, 28 in the system 10 work from a common time reference” [0061]. Also, White et al. discloses “a process 100 of restoring (or otherwise providing redundant) service in response to detecting a CMTS non-activity indication or inducer, e.g., a transmit failure, includes a stage 102, where synchronization messages (synch messages) are sent from an active CMTS, e.g., CMTS 12.sub.2 to an associated diagnostic CM 90.sub.2. At stage 102, synchronization messages are periodically sent to the diagnostic CM 90.sub.2. The CM 90.sub.2 responds to the received sync messages by starting a sync timer” [0068-0070], which meets the claimed comparator.
- The claimed “and a first **reset** circuit connected to the first timer for resetting the first timer in response to a reset signal” is met by ‘the CMTS resetting on receipt of alarm and trigger the spare CMTS to take over’ [0065] and “At stage 108, the failed, or otherwise imminently or currently

non-active, CMTS 12.sub.2 resets and the spare CMTS 16 loads parameters from the failed CMTS 12.sub.2. The spare CMTS 16 updates its parameters to match those taken from the failed CMTS 12.sub.2. The spare CMTS 16 further begins producing synch messages and sets an RF switch to map the spare CMTS output to the appropriate HFC segment associated with the failed CMTS 12.sub.2" [0071].

- The claimed "a second CMTS circuitry component having a **receiver or transmitter**" is met by active CMTS 12, which includes a receiver and/or transmitter since the 'CMTSs is each configured to receive and transmit modem-compatible signals' [0038].
- The claimed "second component including a second system **timer** adapted to be incremented by clock pulses" and "a second **comparator** connected to the second timer for determining when the second timer has reached a designated count" is inherently met by "a hardware-based synchronization scheme used to help ensure that all CMTSs 12, 28 in the system 10 work from a common time reference" [0061], and also met by "the spare CMTS 16 includes hardware and software, in control unit 17, for monitoring the other CMTSs 12" [0042]. Also, White et al. discloses "a process 100 of restoring (or otherwise providing redundant) service in response to detecting a CMTS non-activity indication or inducer, e.g., a transmit failure, includes a stage 102, where synchronization messages (synch messages) are sent from an active CMTS, e.g., CMTS 12.sub.2 to

an associated diagnostic CM 90.sub.2. At stage 102, synchronization messages are periodically sent to the diagnostic CM 90.sub.2. The CM 90.sub.2 responds to the received synch messages by starting a synch timer" [0068-0070], which meets the claimed comparator.

- The claimed "and a second **reset** circuit connected to the second timer for resetting the second timer in response to a reset signal" is met by 'the CMTS resetting on receipt of alarm and trigger the spare CMTS to take over" [0065] and "At stage 108, the failed, or otherwise imminently or currently non-active, CMTS 12.sub.2 resets and the spare CMTS 16 loads parameters from the failed CMTS 12.sub.2. The spare CMTS 16 updates its parameters to match those taken from the failed CMTS 12.sub.2. The spare CMTS 16 further begins producing synch messages and sets an RF switch to map the spare CMTS output to the appropriate HFC segment associated with the failed CMTS 12.sub.2" [0071].
- The claimed "circuitry **connected** to the first and second components for connecting the first comparator to provide the reset signal to the second reset circuit" is met by 'the CMTS resetting on receipt of alarm and trigger the spare CMTS to take over" [0065] and "At stage 108, the failed, or otherwise imminently or currently non-active, CMTS 12.sub.2 resets and the spare CMTS 16 loads parameters from the failed CMTS 12.sub.2. The spare CMTS 16 updates its parameters to match those taken from the failed CMTS 12.sub.2. The spare CMTS 16 further begins producing

synch messages and sets an RF switch to map the spare CMTS output to the appropriate HFC segment associated with the failed CMTS 12.sub.2" [0071].

- The claimed "the first and second components being adapted to serve as a swap-out replacements for each other" is met by "if an active CMTS becomes available, e.g., by repairing or replacing the failed CMTS 122, then that CMTS is operated in standby mode until being switched in to replace the spare CMTS 16" [0072].
- The claimed "circuitry connected to the first and second components for selectively connecting either the first comparator to provide the reset signal to the second reset circuit, or the second comparator to provide the reset signal to the first reset circuit" is met by the circuit as shown in figures 2 and 3, by 'the CMTS resetting on receipt of alarm and trigger the spare CMTS to take over" [0065], and by "At stage 108, the failed, or otherwise imminently or currently non-active, CMTS 12.sub.2 resets and the spare CMTS 16 loads parameters from the failed CMTS 12.sub.2. The spare CMTS 16 updates its parameters to match those taken from the failed CMTS 12.sub.2. The spare CMTS 16 further begins producing sync messages and sets an RF switch to map the spare CMTS output to the appropriate HFC segment associated with the failed CMTS 12.sub.2" [0071].

As to claim 3,

- The claimed "providing a first cable modem termination system (CMTS) circuitry component including a system timer incremented by clock pulses" is met as discussed in claim 1.
- The claimed "providing a second CMTS circuitry component including a system timer incremented by clock pulses; the second component being adapted to serve as a swap-out replacement for the first component" is met as discussed in claim 1.
- The claimed "resetting the second component timer when the first timer has reached a designated count" is met as discussed in claim 1.

#### Contact Information

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shirley Chang whose telephone number is (571) 272-8546. The examiner can normally be reached on 8:30-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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